

CAI
ND

-18M32

Government
Publications

Can. Militia & defence dept.

[General publications]

[G-1] Military estates of deceased
officers and soldiers of the
Canadian expeditionary force.

MILITARY ESTATES

OF

DECEASED
OFFICERS AND SOLDIERS

OF THE

CANADIAN EXPEDITIONARY
FORCE



CAI
ND
-18M32

MILITARY ESTATES
of
DECEASED
OFFICERS AND SOLDIERS
of the
Canadian Expeditionary Force

Prepared with the approval of the Judge Advocate-General and under the authority of Militia Council for the information of all those interested in the distribution of Military Estates.

ALL COMMUNICATIONS SHOULD BE
ADDRESSED TO

The Director of Military Estates
Ottawa, Ont.

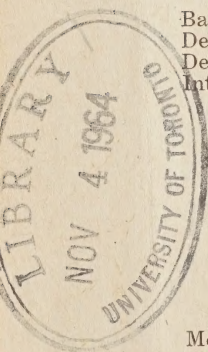
DEPARTMENT OF MILITIA & DEFENCE
CANADA.

CONTENTS.

Part 1—		Page
Formation and Powers of Military Estates Directorate.	3	
Bank balances	4	
Part 2—Procedure.		
Certificate of Death	4	
Deaths in Canada	8	
Domicile.	7	
Insanity.	8	
Missing officers and soldiers	6	
Mode of distributing an estate	7	
Next-of-Kin	4	
Pay accounts	6	
Personal effects	5	
Royal Air Force	9	
Surplus baggage	6	
Wills	7	

Part 3— LAWS.

Authority in Canada. Secretary of State's authorization	12
Bank balances. Order in Council re	14
Decorations. Royal Warrant re	19
Delegation of Powers. Order in Council re	14
Intestacy laws of:—	
Alberta	15A
British Columbia	15A
England	15A
Manitoba	15A
New Brunswick	15A
Nova Scotia	15A
Ontario	15A
Prince Edward Island	15A
Quebec	15A
Saskatchewan	15A
Scotland	15A
Medals. Royal Warrant re	19
Regimental Debts Act, 1893. Sections of ..	9
Wills, etc.	
Alberta	16
British Columbia	18
England	19
Wills Act, 1837, Sec. 11 (Imp.) ..	19
Wills Act, 1918 (Imp.)	20
Manitoba	20
New Brunswick	21
Nova Scotia	21
Ontario	21
Prince Edward Island	22
Quebec	22
Saskatchewan	22
Scotland	24



938827

PART I.

THE DIRECTORSHIP OF MILITARY ESTATES.

Among the laws applied to the military forces of Canada by the Militia Act is the Regimental Debts Act, 1893, which was passed for the purpose of simplifying the distribution of military estates of officers and soldiers and providing for their administration with the least possible expense.

Under the Act, the Secretary of State or his representative is responsible for the collection of all personal effects and of the pay due to every deceased officer or soldier. He must pay thereout certain military debts and may pay or apply the residue or any part of the military estate as laid down in the said Act to or for the benefit of any person appearing to be entitled to the personal estate of the deceased, and for such purpose he may deposit the whole or part in a savings bank or otherwise. Any debts of the deceased accruing within three years before the death which are claimed from the Secretary of State within two years after death, and proved by the claimant to his satisfaction, may be paid out of any military funds remaining in his hands. Where any part of the personal estate consists of effects, securities, or other property not converted into money, the Secretary of State has the power of converting the same into money as the representative of the deceased. If notice is given that representation has been obtained on behalf of the deceased's estate, the residue of the military estate is to be handed over to the representative.

To protect the Secretary of State in any disputes arising by reason of action taken by him in the execution of his duties under the Act, s.17 provides that:

"Compliance with the regulations under the Act with respect to the mode of payment of any surplus or residue or any part thereof to any person (whether by transmission or remission to another place or person or otherwise) shall discharge the Secretary of State or paymaster or other person complying with the regulations, and he shall not be liable by reason of the surplus or residue or part

which may be in his hands having been paid, transmitted, remitted or otherwise dealt with in accordance with the regulations."

In 1915, the Secretary of State delegated his duties with respect to officers and soldiers of the Canadian Expeditionary Force to the Director of Pay and Records Services, C.E.F. in London, and to the Honorable the Minister of Militia and Defence in Canada, and authorized them to exercise all the powers conferred upon him by the Act and amendments thereto.

By an Order in Council dated 28th March, 1916, the powers of the Minister of Militia were delegated to Captain (now Major) H. S. Relph, who was later appointed Director of Military Estates and under supervision of this officer the Directorate of Military Estates was organized at Ottawa.

To avoid the expense of securing administration in small estates, power was conferred upon the Director of Military Estates by Order in Council dated 3rd June, 1918, to collect bank balances or other credits up to \$400 belonging to or forming part of an estate of any deceased officer or soldier and to distribute this money with the military estate. Any person handing over such balances or credits to the Receiver General is protected from liability by the Order in Council.

PART II.

MODE OF DEALING WITH ESTATES.

Deaths Overseas.

Upon the death of an officer or soldier whilst on active service overseas, the casualty is reported through the Officer Commanding to the Record Office in London, and notified by cable to the Record Office, Ottawa. In cases where the named next-of-kin resides overseas, the necessary steps are taken by the Overseas Record Office to supply all the information possible. If the named next-of-kin resides in Canada, Newfoundland, British West Indies, the United States or South America, the Record Office at Ottawa undertakes to supply all available information and to issue a death certificate.

Next of Kin.

On appointment or enlistment, an officer or soldier has to name some person to whom he wishes

word to be sent of any casualty that may occur to him, and such person is known for the purpose of notification only as the "next-of-kin." Sometimes a near relative is nominated, sometimes a remote relative or even a stranger in blood. All communications are addressed to such "next-of-kin" in order that the Director of Military Estates may obtain the necessary particulars regarding the relatives. Where the "next-of-kin" is not aware of the whereabouts of the relatives of a deceased officer or soldier, every effort is made to trace them by advertisement and otherwise.

Personal Effects.

Immediately after a death has occurred overseas, the personal effects, namely: the valuables, money, personal clothing, private papers and letters are carefully collected. These effects, with an inventory, are placed in a sealed package duly labelled and forwarded, if the casualty occurred in the war area, to the Base; if in England, direct to the Estates Office in London. Upon the receipt of the parcel of effects at the Base, the contents are carefully checked and sealed, a fresh inventory prepared and all sent to the London Office; here they are again examined and a final inventory made of the contents of the personal effects package and surplus baggage, if any. The question of their disposal is then considered.

The address of the beneficiary named in the will of a deceased officer or soldier, or in the case of an intestacy, that of the named next-of-kin, is noted, and if the next-of-kin is resident in Canada, Newfoundland, British West Indies, United States or South America, the personal effects and surplus baggage are forwarded by the first available Canadian Pacific Railway freight steamer to Canada. Upon the arrival of the steamer at a Canadian port, the representative of the Director of Supplies and Transport takes charge of the personal effects and surplus baggage and forwards them to the Director of Military Estates at Ottawa. In order that a complete check may be kept of the contents of the parcels, two copies of an inventory are forwarded from London to Ottawa, one being placed in the parcel itself, and the other forwarded by mail. All parcels are again examined and carefully checked against the inventory on their arrival at Ottawa, and if there is any discrepancy between the contents of the parcel and the inventory the overseas Branch

handling the parcel is communicated with and an explanation requested.

NOTE.—Surplus baggage consists of those effects of an officer or soldier left by him on his departure to France or other theatre of war.

Pay Accounts.

The pay account of a deceased officer or soldier is closed immediately upon receipt by the Chief Paymaster, overseas, of the casualty report, and is credited with pay and allowances up to and including the last day of the current month. Sufficient time must elapse in which to receive all outstanding particulars of credits and debits.

It will be readily understood that an officer or soldier on service may have small outstanding accounts with tradespeople or others in England or may have received advances of pay from different paymasters in France, or other theatre of war. He may also have received articles of clothing or other equipment from Ordnance Stores, which are chargeable against his account, consequently some time must be allowed after a casualty before closing an account, in order that all charges or credits may be given the necessary attention. This period has been fixed at six months, but, at times when fighting has been heavy and the casualties severe, the pressure of work in compiling returns is so great that some further delay inevitably occurs.

If an officer or soldier is first officially reported missing the delay is necessarily even longer. No action can be taken to distribute the estate until the Records Office has obtained sufficient evidence to justify it in issuing what is known as "A Certificate of Death for Official Purposes," and by Order in Council P.C. 2890, dated 6th January, 1916, a period of six months must elapse before such certificate is issued.

After the necessary interval, a statement is prepared which is known as the non-effective account. It shows all credits for pay and allowances from the date of arrival in England to the end of the month in which the casualty occurred, and all debits, consisting of payments made to the individual and to assignees, or other disbursements on his account. Upon the compilation of this non-effective account the Chief Paymaster passes it over to the Estates Office for action.

Mode of Distribution.

If the person or persons legally entitled to receive the military estate are resident anywhere except in America (North or South) the military estate is distributed by the Overseas Estates Office. If on the other hand, the person or persons legally entitled are resident in Canada, Newfoundland, British West Indies, United States or South America the military estate is transferred to the Director of Military Estates at Ottawa for distribution accompanied by a final report disclosing the existence or not of a record in the overseas office of any will made by the deceased. Search is made also in the office of the Director of Military Estates at Ottawa where there are on file over 200,000 original wills left by officers and soldiers of the Canadian Expeditionary Force.

If there is no will, a communication is forwarded to the named next-of-kin accompanied by an Army Form with a list of question to be answered regarding the relatives and the particulars of the residence of the deceased. If there is a will, a communication is forwarded to the beneficiary named therein accompanied by a photographic copy of the will, and if administration with the will annexed is not being obtained, a form of identification for completion by the beneficiary or beneficiaries. If an executor has been appointed by the will, and probate is not being applied for, a form of renunciation completed by the executor must be filed with the Director of Military Estates.

When the necessary forms have been returned the question of the law applicable is considered. This depends upon the "domicile" of the deceased, which speaking generally, is the place at which, before enlistment, he had his permanent residence. When the domicile has been decided, the amount due which may consist of pay and allowances, cash found in the personal effects, bank balances or other credits, is forwarded to the person legally entitled according to the laws of the country or province of the deceased's domicile.

Before the parcel containing the personal effects is despatched to its final destination it is sealed with a numbered lead seal in order to assist in placing the responsibility for any damage to the parcel or for loss of contents. Few such complaints of loss have yet been made, as every clerk handling personal effects (all of whom are returned soldiers)

knows well the great sentimental value which relatives attach to the personal effects of deceased soldier relatives, and every possible safe-guard is provided against loss. The delivery of parcels is undertaken by the different express companies, except in cases of small parcels which are despatched by registered mail.

With every effort to prevent loss it has been impossible to avoid disappointment in several instances to relatives, through the recovery of no effects, or of very few, but it should be borne in mind that there is a certain inevitable loss owing to the exigencies of travel and sea transport under war conditions, and in many cases, the state of the ground and the conditions of fighting at the time of the casualty, prevent any possibility of anything being recovered. When, however, the effects have been recovered on the field and despatched to the Base, the amount of loss has been surprisingly small.

Deaths in Canada.

Whenever an officer or soldier of the Canadian Expeditionary Force dies in Canada, his personal effects are collected under the direction of his Officer Commanding and are held pending instructions from the Director of Military Estates.

The will, if any, and pay account are forwarded to Ottawa and the estate is then distributed in the ordinary way.

Insanity.

Where soldiers have been pronounced incurably insane and are confined in some institution for the care of mentally deranged patients, all matters other than the distribution of arrears of pay due on discharge from the Canadian Expeditionary Force and their personal effects are under the jurisdiction of the Soldiers' Civil Re-establishment. Enquiries regarding maintenance, pension, etc., of such soldiers should, therefore, be addressed to that Department.

The distribution of arrears of pay and personal effects is within the province of the Director of Military Estates, but payment of the former can only be made to the proper officer in each province appointed by provincial authority to deal with the affairs of persons who are confined in asylums, hospitals, or other institutions of like nature within such province. Enquiries regarding the military estates of insane soldiers should, therefore, be addressed to the provincial official so constituted.

They are as follows:

Ontario—Inspector of Prisons and Public Charities, Toronto.

Quebec—Attorney-General, Quebec, P.Q.

Nova Scotia—Attorney-General, Halifax, N.S.

New Brunswick—The Hon., the Premier, Fredericton, N.B.

Manitoba—Administrator of Lunatics' Estates, Winnipeg, Man.

British Columbia—Inspector of Municipalities, Victoria, B.C.

P. E. Island—Attorney-General, Charlottetown, P.E.I.

Saskatchewan—Administrator of Lunatics' Estates, Public Works Dept., Regina, Sask.

Alberta—Administrator of Lunatics' Estates, Treasury Dept., Edmonton, Alta.

Living Officers and Soldiers Surplus Baggage.

Any officer or soldier who has returned to Canada and is desirous of obtaining any surplus baggage which he may have left in England or France should make application to the Director of Military Estates and every effort will be made to trace the same.

Royal Air Force.

The pay accounts of all members of the Royal Air Force, below commissioned rank, who die in Canada or the United States are forwarded to the Director of Military Estates for final disposal.

Part III.

LAWS.

EXTRACTS FROM REGIMENTAL DEBTS ACT, 1893.

(Imp. Stat. 56 Vict. c. 5.)

An Act to consolidate and amend the Law relating to the Payment of Regimental Debts, and the Collection and Disposal of the Effects of Officers and Soldiers in case of Death, Desertion, Insanity, and other cases.

Sec. (8)

The Secretary of State, on being informed of the death of a person subject to military law, shall proceed with all reasonable speed as follows:

1. He shall cause to be ascertained the total amount to the credit of the deceased, including any surplus or part of a surplus remitted by a paymaster as mentioned in this Act, and all arrears of pay, batta grants, and other allowances in the nature thereof; which total amount so ascertained is in this Act referred to as the residue;

2. If he has notice of a representative of the deceased, he shall pay the residue to that representative;

3. He may, and if it is so prescribed shall, before such payment, publish the prescribed notice stating the amount of the residue and such other particulars respecting the deceased and his property as may seem fit, and also the mode in which any application respecting the residue is to be made to the Secretary of State. Provided that the Secretary of State may pay out of any money in his hands to the credit of the deceased any preferential charges appearing to him to have been left unpaid by the committee of adjustment.

Sec. (9)

Where the residue does not exceed one hundred pounds, the Secretary of State may, if he thinks fit, require representation to be taken out; but if he does not, and has no notice of a representative of the deceased, then, after the expiration of the prescribed time and the publication of the prescribed notice (if any), the residue shall be disposed of as follows:

1 The Secretary of State may, if he thinks fit, pay or apply the residue or any part thereof, in accordance with the prescribed regulations to or for the benefit of any of the persons appearing to be beneficially entitled to the personal estate of the deceased, or any of them, and may for that purpose invest the same by deposit in a military or other savings bank, or otherwise, and, if necessary, in the name or names of a trustee or trustees for any such person.

2. Any part thereof remaining in the hands of the Secretary of State, and not irrevocably appropriated, shall be applied in paying any debt of the deceased which—

(a) accrued within three years before the death; and

- (b) is claimed from the Secretary of State within two years after the death; and
- (c) is proved by the claimant to the satisfaction of the Secretary of State.

3. Except as above in this section provided, a person shall not be entitled to obtain payment out of any residue in the hands of the Secretary of State of any sum due from the deceased.

Sec. (11)

Medals and decorations shall not be considered to be comprised in the personal estate of the deceased with reference to the claims of creditors or for any of the purposes of administration under this Act or otherwise, and, notwithstanding anything in this or any other Act, the same, when secured by the committee of adjustment, shall be held and disposed of according to regulations laid down by royal warrant.

Sec. (12)

Where any part of the personal estate of the deceased consists of effects, securities, or other property not converted into money, the provisions of this Act with respect to paying or remitting the surplus shall, save as may be prescribed, extend to the delivery, transmission, or transfer of such effects, securities, or property, and the paymaster and Secretary of State shall respectively have the same power of converting the same into money as the representative of the deceased.

Sec. (17)

Compliance with the regulations under this Act with respect to the mode of payment of any surplus or residue or any part thereof to any person (whether by transmission or remission to another place or person or otherwise) shall discharge the Secretary of State or paymaster or other person complying with the regulations, and he shall not be liable by reason of the surplus or residue or part which may be in his hands having been paid, transmitted, remitted, or otherwise dealt with in accordance with the regulations.

Sec. (18)

Every payment, application, sale, or other disposition of property made by the Secretary of State, or by any committee of adjustment, or by any paymaster, when acting in execution or supposed execution of this Act, or of any royal warrant for carrying

this Act into effect, shall be valid as against all persons whomsoever; and the Secretary of State, and every officer belonging to any such committee, and every such paymaster, as aforesaid, shall by virtue of this Act, be absolutely discharged from all liability in respect of the property so paid, applied, sold, or disposed of.

AUTHORIZATION.

Dated 13th day of June, 1917, amending an earlier Authorization dated 3rd day of December, 1915.

Whereas by an Authorization in writing, dated the 3rd of December, 1915, the Right Honourable Andrew Bonar Law, His Majesty's then Principal Secretary of State for the Colonies, authorized the person for the time being holding the appointment of Director of Pay and Record Services of the Canadian Expeditionary Force, and any person or persons authorized by him to perform on behalf of the Secretary of State in accordance with the conditions laid down in the Regimental Debts Act, 1893, 56 Victoria, Chapter 5, and any Regulations prescribed under the said Act any of the following functions, namely:

(1) To receive any surplus arising under the Regimental Debts Act, 1893, of any member of the Canadian Expeditionary Force who may die subject to military law during the present war, and all arrears of pay, batta, grants and other allowances in the nature thereof standing to the credit of the deceased.

(2) To pay out of the money so received any debts payable out of the same in accordance with the provisions of the said Act and regulations, and any expenses or charges which under the said Act, or any regulations prescribed thereunder, may be chargeable against the same.

(3) To pay or apply the moneys so received, or any residue thereof remaining after payment of debts, charges and expenses, as aforesaid, to the representative of the deceased in the United Kingdom, or in the absence of any such representative to pay or apply the same to or for the benefit of such persons in the United Kingdom as appear to be beneficially entitled to the personal estate of the deceased or to or for the benefit of any such persons.

(4) To transmit any balance in his or their hands not disposed of as aforesaid to the Minister of Militia and Defence at Ottawa for distribution.

And whereas by the said Authorization it was further declared that for the purposes of exercising the powers delegated to them all persons authorized to act on behalf of the Secretary of State should have and exercise all such further or incidental powers as are by the said Act or any regulations prescribed thereunder conferred or vested in the Secretary of State.

And whereas the functions and duties of the Director of Pay and Record Services, of the Canadian Expeditionary Force, are and have been as from the 19th December, 1916, transferred to and exercised by the Accountant-General of the Overseas Military Forces of Canada.

Now I, Walter Hume Long, His Majesty's Principal Secretary of State for the Colonies, hereby declare that all powers delegated by the said Authorization of the 3rd December, 1915, to the person for the time being holding the appointment of Director of Pay and Record Services of the Canadian Expeditionary Force and the person or persons authorized by him are transferred to the person for the time being holding the appointment of Accountant-General of the Overseas Military Force of Canada and any person or persons authorized by him.

And I hereby further declare that all receipts of money or effects of any member of the Canadian Expeditionary Force deceased during the present war, and all payments out of monies so received, and all distributions, disposals and applications of such monies and effects had or made after the 19th of December, 1916, and before the date hereof by the said Accountant-General of the Overseas Forces of Canada or by any person or persons acting under his authority in pursuance or purported pursuance of the said Act, or regulations prescribed thereunder, have been had and made under the authority of and with the sanction of the Secretary of State.

Given under my hand this 13th day of June, 1917.

(Sgd.) WALTER H. LONG.

P.C. 703.

Certified copy of a Report of the Committee of the Privy Council, approved by His Royal Highness the Governor-General on the 28th March, 1916.

The Committee of the Privy Council have had before them a report, dated 22nd March, 1916, from the Acting Minister of Militia and Defence, stating that under the Regimental Debts Act, 1893, Sections 8 and 9. the Secretary of State has the power of an Administrator to distribute the estates of deceased soldiers, and further, that this power has been conferred upon the Minister of Militia and Defence by an Order, dated 3rd of December, 1915, issued by His Majesty's Principal Secretary of State for the Colonies and reading as follows:

"and I hereby authorize the Minister of Militia and Defence, at Ottawa, and all persons duly authorized by him, to dispose of and distribute on my behalf any part of the estate coming to his or their hands as afore-said in accordance with the conditions in the Regimental Debts Act, 1893, and any regulations prescribed under this Act."

Under the foregoing authority the Minister recommends that Capt. H. S. Relph, who has been transferred from the London Office to Ottawa for the purpose of carrying on this work and who is thoroughly competent to deal with it, be given full powers to carry on the distribution of estates of deceased soldiers in accordance with the Regimental Debts Act, 1893.

The Committee concur in the foregoing recommendation and submit the same for approval.

(Sgd.) Rodolphe Boudreau.

Clerk of the Privy Council.

P.C. 1311.

Certified copy of a report of the Committee of the Privy Council, approved by His Excellency the Governor-General on the 3rd June, 1918.

The Committee of the Privy Council have had before them a report, dated 13th May, 1918, from the Minister of Militia and Defence, stating that by Order-in-Council of the 11th June, 1917 (P.C. 1595) provision was made for the payment to the Receiver General of balances up to \$400.00 at the credit of

deceased officers of the Canadian Expeditionary Force in the Bank of Montreal, the Bank being saved harmless upon such payment being made, and the money being distributed among persons entitled to the estate of the deceased.

As a matter of convenience these payments have been made by the Bank of Montreal directly to the Officer in Charge of Estates, by whom the money has been distributed, and a similar procedure has been followed in regard to small balances to the credit of officers and soldiers in Banks other than the Bank of Montreal.

The practice of distributing with the military estate small amounts lying to the credit of deceased officers and soldiers has been of very great convenience since it saves the proportionately very large expense of obtaining administration, and official sanction is desirable.

Arrangements have now been completed, whereby sums paid to the Receiver General, under the provisions of the Order-in-Council above referred to, and sums paid to Banks and employers in like cases will be disbursed under the direction of the Paymaster-General upon the report of the Officer in Charge of Estates, and it is desirable to authorize the practice heretofore followed and make provision for balances to the credit of officers and soldiers elsewhere than in the Bank of Montreal.

The Minister, consequently, recommends that Your Excellency in Council approve of the distribution with the military estate of deceased officers and soldiers of the Canadian Expeditionary Forces of balances of money at their credit in any Bank or with any employer, provided such balances do not in the case of any officer or soldier exceed in all \$400.00 and direct that the Bank or employer be relieved from further liability and saved harmless in respect of any such balance upon the payment thereof to the Receiver General, and further direct that so far as payments of the kind hereinbefore referred to have heretofore been made to the Officer in Charge of Estates, they shall be deemed to have been properly made and the provisions of this Order-in-Council shall apply to them.

The committee concur in the foregoing recommendation and submit the same for approval.

(Sgd.) Rodolphe Boudreau,
Clerk of the Privy Council.

Special Provisions Contained in the Laws of England, Scotland and the various Provinces of Canada applicable to the Wills of Officers and Soldiers and to the Distribution of their Estates.

ALBERTA.

(N.W.T. 1901 c.13 Ordinance Respecting the Devolution of Estates in force in Alberta.)

Sec. 1.

The property of any man hereafter dying intestate and leaving a widow but no issue shall belong to such widow absolutely and exclusively, provided that prior to his death such widow had not left him and lived in adultery after leaving him.

The section shall apply to the property of any person who died before the date of the coming in force of this ordinance in case no portion of the estate of such person has been distributed.

Sec. 2.

The mother of any person hereafter dying intestate without a wife, child or father shall be entitled to the whole of the property of such intestate.

Sec. 3.

In the distribution of personal property of any woman hereafter dying intestate, her illegitimate children shall be entitled to the same rights as if they were legitimate.

Sec. 4.

When an illegitimate child dies intestate without issue the mother of such child shall be entitled to any personal property which the said child was the owner of at the time of his death.

1906 c.19. An Act respecting the Transfer and Descent of Land as amended by 1917 c.3 sec. 39 and 1918 c.4 sec. 46.

Sec. 11.

If a wife has left her husband and has lived in adultery after leaving him, she shall take no part of the land of her husband.

Sec. 13.

Illegitimate children shall inherit from the mother as if they were legitimate, and through the mother, if dead, any land which she would, if living, have taken by purchase, gift, devise or descent from any other person.

Sec. 14.

When an illegitimate child dies intestate, without issue, the mother of such child shall inherit any land which the said child was the owner of at the time of his death.

Sec. 15, Any soldier being in actual military service or mariner or seaman being at sea may, notwithstanding he is not of the full age of 21 years, dispose of his personal property in the manner in which he might have under the provisions of the law of England as it stood on the 15th day of July, 1870.

Any soldier, seaman or mariner in actual military or naval service may dispose of his real or personal property by a will signed by himself, which will need not be in any particular form nor shall it require any attesting witness or witnesses.

This section shall be deemed to have been in force from and after the 1st day of August, 1914.

Notwithstanding anything in this section contained any act of administration done prior to the 15th day of April, 1918, by an executor or administrator under a will or letters of administration invalidated in consequence of this section shall be as valid as if such will or letters of administration continued completely operative.

1910, c.18, "The Married Women's Relief Act.

Sec. 2.

The widow of a man who dies leaving a will by the terms of which his said widow would in the opinion of the judge before whom the application is made, receive less than if he had died intestate, may apply to the Supreme Court for relief.

Sec. 8.

On any such application, the Court may make such allowance to the applicant out of the estate of her husband disposed of by will as may be just and equitable in the circumstances.

Sec. 10.

Any answer or defence that would have been available to the husband of the applicant in any suit for alimony shall equally be available to his executors or administrators in any application made under this Act.

Sec. 12.

No application shall be entertained under this Act after six months from the death of the husband.

BRITISH COLUMBIA.

R.S.B.C. 1911, c.4. "Administration Act."

Sec. 91.

When an intestate shall leave surviving him in this Province a concubine at the time of his death actually maintained by him or under his protection or shall leave surviving him any illegitimate child or children under the age of 16 years reputed to be by him begotten of any woman, etc. it shall be lawful for the Court to order that there be retained, allotted and applied for the support, maintenance and benefit of such concubine, and of every such child, respectively, so much of the net real and personal estate, or either of them, of such intestate (after payment of all his debts) as to the Court shall seem fit, not however retaining, allotting and applying for such concubine or for any such child a sum greater for each than \$500.00, or in the whole, than the amount of 10 per cent. on the net real and personal estate of the intestate within the Province whichever limit may be the largest.

R.S.B.C. 1911, c.241, "Wills Act."

Sec. 9.

Provided always that any soldier being in actual military service or any mariner or seaman being at sea may dispose of his personal estate as he might have done before the making of this Act.

Sec. 31, (part)

This Act shall not extend to any will made before the first day of January, 1838.

1918, c.101. "Wills Act Amendment Act."

Section 9 of the Wills Act being Ch. 241 of the Revised Statutes of British Columbia, 1911, is hereby amended by adding thereto the following subsection:

"2" And provided further that the will of any person of the full age of 21 years being a member of the Allied Forces as defined by the Allied Forces Exemption Act, 1918, who has died or shall hereafter die during the continuance of the present war or within twelve months thereafter, shall be and shall be taken to have been sufficient to dispose of his real and personal property if such will is in conformity with the following provision:

(a) Such will shall be in writing, signed by the testator or some other person in his presence, and

by his direction without the necessity for the presence attestation or subscription of any witness.

(b) Before any such will shall be admitted to probate or shall be sealed by virtue of the Probates Recognition Act, R.S.B.C., 1911, Ch. 184, the judge or Court granting such probate, or sealing shall be satisfied by such evidence as by such Court or judge shall be deemed sufficient of the genuineness of the signature of the testator or that such will was signed by some other person in his presence and by his direction.

ENGLAND.

WILLS ACT OF 1837. Imp. Stat. 7, Will: 4 and 1 Vic. c.26.

Sec. 11.

When a soldier is in actual military service, i.e., on active service, or has received orders to proceed upon active service, he can dispose of the whole of his estate by bequest without making a formal will and even if he is under twenty-one years of age. In such circumstances he can dispose of his personal estate by a verbal wish or declaration expressed in the presence of witnesses, or by letter or any document written by him, whether witnessed or unwitnessed, which clearly expresses his wishes or intentions as to the disposal of his estate in the event of his death.

NOTE.—It must be borne in mind, however, that this testamentary disposition of his estate does not terminate with the termination of the campaign or his return from the expedition on which it may have been made.

MEDALS AND DECORATIONS.

1917 Army Order 180.—The medals of an officer or soldier dying in the service, whether issued before or after his death will be disposed of as follows:

1. If there is a will, the medals will be sent to the person, who, in the opinion of the Secretary of State, is named in the will as being intended to receive them or as being a general or residuary legatee of the estate.

2. In default of and subject to any such testamentary disposition the medals will be sent to the next-of-kin, in the following order of relationship: Widow, eldest surviving son, eldest surviving daughter, father, mother, eldest surviving brother, eldest surviving sister, eldest surviving half-brother, eldest surviving half-sister.

3. In the case of Orders and Decorations, other than medals, issued after death, the insignia or decoration will be handed over to the next-of-kin in the order of relationship specified in No. 2.

THE WILLS ACT OF 1918. Imp. Stat. 7 and 8 Geo. V. c.58.

Sec. 1.

In order to remove doubts as to the construction of the Wills Act, 1837, it is hereby declared and enacted that section eleven of that Act authorizes and always has authorized any soldier being in actual military service, or any mariner or seaman being at sea to dispose of his personal estate as he might have done before the passing of that Act, though under the age of twenty-one years.

Sec. 2.

Section eleven of the Wills Act, 1837, shall extend to any member of His Majesty's naval or marine forces not only when he is at sea, but also when he is so circumstanced that if he were a soldier he would be in actual military service within the meaning of that section.

Sec. 3.

A testamentary disposition of any real estate in England or Ireland made by a person to whom section eleven of the Wills Act, 1837, applies, and who dies after the passing of this Act, shall, notwithstanding that the person making the disposition was at the time of making it under twenty-one years of age or that the disposition has not been made in such manner or form as was at the passing of this Act required by law, be valid in any case where the person making the disposition was of such age and the disposition has been made in such manner and form.

MANITOBA.

R.S.C. 1906, c.99. "The Manitoba Supplementary Provisions Act."

Sec. 6.

Subject to the provisions of this Act, the laws of England relating to matters within the jurisdiction of the Parliament of Canada as the same existed on the 15th day of July, 1870, were from the said day and are in force in the Province in so far as applicable to the Province and in so far as the said laws

have not been or are not hereafter repealed, altered, varied, modified or affected by any Act of Parliament of the United Kingdom applicable to the Province or of the Parliament of Canada.

R.S.M. 1913, c.204. "Manitoba Wills Act."

Sec. 8.

Any soldier being in actual military service or any mariner or seaman being at sea may dispose of his personal estate as he might have done before the passing of this Act.

NEW BRUNSWICK.

C.S.N.B. 1903, c.160, "Wills and Intestacy."

Sec. 5.

No appointment made by will in exercise of any power shall be valid unless the same be executed in manner hereinbefore required; and every will so executed shall, so far as respects the execution and attestation thereof be a valid execution of a power of appointment by will notwithstanding it shall have been expressly required that a will made in the exercise of such power shall be executed with some additional or other form of execution or solemnity; but any soldier being in actual military service or any mariner or seaman being at sea may dispose of his personal estate as he might have done heretofore.

NOVA SCOTIA.

R.S.N.S. 1900, c.139. "The Wills Act."

Sec. 9.

Any soldier being in actual military service or any mariner or seaman being at sea, may dispose of his personal property in the manner in which he might have done before the 27th day of March, A.D., 1840.

ONTARIO.

R.S.O. 1914, c.120. "The Wills Act."

Sec. 14.

Any soldier being in actual military service or seaman being at sea, may dispose of his personal estate as he might have done before the passing of this Act.

PRINCE EDWARD ISLAND.

6 Vic. c.26. "An Act respecting Wills and Legacies."

Sec. 9.

Provided always and be it further enacted, that any soldier being in actual military service, or any mariner or seaman being at sea may dispose of his personal estate as he might have done before the passing of this Act.

QUEBEC.

Civil Code of Lower Canada, 1912.

Sec. 833.

Minors (even of the age of twenty years and over) whether emancipated or not, are incapable of bequeathing any part of their property.

Sec. 849.

Wills made in Lower Canada or elsewhere by military men in active service, out of garrison, or by mariners during voyages, on board ship or in hospital, which would be valid in England as regards their form, are likewise valid in Lower Canada.

Sec. 850.

Holograph wills must be wholly written and signed by the testator, and require neither notaries nor witnesses. They are subject to no particular form.

SASKATCHEWAN.

R.S.S. 1909, c.43. "The Devolution of Estates Act."

Sec. 8.

If an intestate dies leaving no widow, issue or father his whole estate, real and personal, shall go to his mother.

Sec. 13.

If a wife has left her husband and has lived in adultery after leaving him she shall take no part of his real or personal estate.

Sec. 23.

Illegitimate children shall inherit from the mother as if they were legitimate and through the mother if dead any real or personal property which she would if living have taken by purchase, gift, demise or descent from any other person.

Sec. 24.

If an intestate being an illegitimate child dies leaving no widow husband or issue, the whole of such intestate's property, real and personal, shall go to his or her mother.

R.S.S. 1909, c.44—"The Wills Act."

Sec. 6.

Any soldier being in actual military service or mariner or seaman at sea may dispose of his personal property in the manner in which he might have done before the passage of this Act.

1919-11, c.13—"An Act to amend the Devolution of Estates Act."

Sec. 11a.

The widow of a man who dies leaving a Will by the terms of which the said widow would in the opinion of the judge before whom the application is made, receive less than if he had died intestate leaving a widow and children may apply to the supreme court for relief.

Sec. 11g.

On any such application the court may make such allowance to the applicant out of the estate of her husband disposed of by will as shall in the opinion of the judge be equal to what would have gone to such widow under this Act had her deceased husband died intestate leaving a widow and children.

Sec. 11i.

Any answer or defence that would have been available to the husband of the applicant in any suit for alimony shall equally be available to his executors or administrators in any application made under the provisions of Sections 11a to 11k, both inclusive, of this Act.

Sec. 11k.

No application shall be entertained under Sections 11a to 11k, both inclusive, of this Act after six months from the death of the husband.

1918, c.20—"An Act to amend the Wills Act."

Sec. 1.

Section six of the Wills Act, being Chapter 44, of the Revised Statutes of Saskatchewan, 1909, is amended by adding thereto the words, "and he may dispose of his real property in the same manner as his personal."

Sec. 2.

The said section six in its amended form shall apply retrospectively to Wills made at any time after the fourth day of August, 1914.

SCOTLAND.

NOTES ON THE LAWS OF SCOTLAND.

A domiciled Scotsman leaving a widow or children can only validly dispose, by will, of:

1. One-half of his personal estate if he leaves a widow and no children.

2. One-third of his personal estate if he leaves a widow and child or children.

3. One-half of his personal estate if he leaves children but no widow.

A valid will or testament may be constituted under the laws of Scotland by any writing signed by the deceased and which is either holograph or duly testated. In order to be regarded as holograph, a will must be either entirely or in essential clauses in the handwriting of the testator, or must bear to be adopted by him as his writing.

A nuncupative verbal legacy given by a Scotsman is valid, whether at the time of the expiration of his wishes he was on active military service or not, but the amount thereof cannot exceed £8.6.8d. sterling. If it exceeds this sum it will be effectual to that extent if the legatee chooses so to restrict it but ineffectual as to the surplus.

There is no provision in Scottish laws similar to that in English law under which any soldier being on actual military service may dispose of his personal military estate by a nuncupative or military will.

There are certain kinds of regular marriages recognized by Scottish law, i.e., that by co-habitation and repute, which must be established by competent evidence.

A child born before marriage may in certain circumstances be legalized by the subsequent marriage of its parents and therefore entitled to inherit.

An illegitimate child upon proof of paternity and under certain circumstances has a claim to such aliment as the law allows out of its father's estate. The parents are both liable for its aliment as long as aliment is payable.



